

### **INITIAL STATEMENT OF REASONS:**

The California Department of Corrections and Rehabilitation proposes to amend and adopt provisions governing Section 3000, and Sections 3130 through 3147, of the California Code of Regulations (CCR), Title 15, Division 3, concerning inmate mail.

The Department recognizes that there have been inconsistencies in mailroom processes statewide that have needed to be addressed and standardized. In developing these revisions, consideration was given to each institution's physical plant differences and staffing allotments. The revisions have been developed to align the Department's mail policy with current United States Postal Service regulations, to avoid litigation regarding treatment of certain bulk rate items, and to incorporate older Administrative Bulletins regarding various changes to mail procedures. As such, the revisions will assist in streamlining the processing of inmate mail and upgrading the efficiency of the institution's mailrooms.

### **DETERMINATION:**

The Department has determined that no alternative considered would be more effective in carrying out the purpose of this action, or would be as effective and less burdensome to affected private persons than the action proposed.

The Department has determined that no reasonable alternatives to the regulations have been identified or brought to the attention of the Department that would lessen any adverse impact on small business.

The Department has determined that the facts, evidence, and documents initially identified in the Initial Statement of Reasons support an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the Department's initial determination.

### **ASSESSMENTS, MANDATES AND FISCAL IMPACT:**

This action will neither create nor eliminate jobs in the State of California nor result in the elimination of existing business, or create or expand business in the State of California.

The Department determines this action imposes no mandates on local agencies or school districts; no fiscal impact on State or local government, or Federal funding to the State, or private persons. It is also determined that this action does not affect small businesses nor have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states, because they are not affected by the internal management of State prisons; or on housing costs; and no costs or reimbursements to any local agency or school district within the meaning of Government Code Section 17561.

#### **Section 3000**

**Section 3000 is amended** to expand upon the definition of an indigent inmate to include those inmates without sufficient funds to pay for first class postage.

#### **Section 3130.**

**Section 3130 is amended** to clarify the general mail policy of the Department by removing language that is outdated or repeated elsewhere in the regulations and by adding language that provides a broader overview of the Department's inmate mail general policy.

### **Section 3131.**

**Section 3131 is amended** to remove the requirement that the Director must approve every correctional facility's plan of operations for the sending and receiving of inmate mail prior to its implementation.

### **Section 3132.**

**Subsection 3132(a) is amended** to emphasize that all persons that correspond with inmates within the jurisdiction of the Department are expected to comply with existing mail laws and regulations.

**Subsection 3132(b) remains unchanged.**

### **Section 3133.**

**Existing Section 3133 is deleted** as the number of persons an inmate may correspond with is now included in Section 3134, General Mail Regulations, and to remove duplicative language already included in Section 3139. The information contained in this deleted section was not sufficient to constitute being in a section of its own, and was relocated for incorporation into general mail regulations for improved clarity and consistency.

**New Section 3133 is relocated from existing Section 3147, and amended** in its entirety. For clarity and simplicity, the existing text of Section 3147 is deleted, and is rewritten as new section 3133 to improve the overall clarity of the Mail Article by placing the definitions of types of mail early in the mail regulations, by providing a larger scope of definitions of various classes and types of mail, as well as to delineate the disposition of various types of incoming and outgoing mail.

### **Section 3134.**

**Existing Section 3134 is relocated and renumbered to Section 3138 to provide** a more orderly and consistent sequence of the sections within the Article of Inmate Mail.

**New Section 3134 is relocated from existing Section 3138, and amended** in its entirety to provide a broad range of information on a variety of current general mail regulations beyond the disposition of mail, such as what items can be sent in to inmates, metered envelopes, inspection of mail, contests, and other general mail regulations. This information is now also presented earlier in the regulations to provide clarity and consistency in the overall mail regulations.

### **Section 3135.**

**Subsection 3135(a) is amended** to remove the requirement that all nonconfidential correspondence shall be read by staff, as that requirement is included in Section 3133(b)(5). Also, exceptions to disallowing disturbing correspondence are no longer allowed. Finally, language pertaining to documentation of the reasons for withholding mail has been removed, as this information is provided more succinctly in Section 3136.

**Subsection 3135(b) is amended** to provide several changes for format and updated terminology.

**Existing subsection 3135(c) is amended, renumbered, and relocated to 3135(e).**

**New subsection 3135(c) is adopted** and is an expansion of the discussion in Subsection 3135(b) regarding value judgments pertaining to mail, with detail on the various types of mail that must be disallowed regardless of value judgments to emphasize the safety and security of the institution.

**New subsection 3135(d) is adopted** to expand on the subject of disallowed mail to specifically disallow virtually all obscene material, or any material that would appeal to the prurient interest.

**New subsection 3135(e) is relocated from existing subsection 3135(c) and amended** for clarity and updated terminology.

#### **Section 3136.**

**Existing subsection 3136(a) is deleted and new section 3136(a) is added** to remove vague language, and to provide direction to staff as to how to notice an inmate of disapproved mail.

**Existing subsection 3136(b) is deleted and new section 3136(b) is added** to remove vague language, and to delineate actual time frames of how long disapproved mail must be retained, particularly if a lawsuit results due to the disapproval of mail, before it can be disposed.

#### **Section 3137.**

**Section 3137(a), (b), and (c) are amended** for clarification and changes of updated terminology.

#### **Section 3138.**

**Existing Section 3138 has been relocated and renumbered to Section 3134, and has been amended** in its entirety.

**New section 3138 has been relocated from existing section 3134, and is renumbered and amended** in its entirety to expand upon the writing materials and prepaid envelopes that an indigent inmate is allowed, as well as the restrictions that are placed on indigent inmates. There is also expanded language providing direction to staff regarding indigent inmates access to the courts.

#### **Section 3139.**

**Section 3139 title is amended** to include parolees and probationers, in addition to other inmates, with which inmates may correspond.

**Initial paragraph of section 3139 is deleted** as this language is vague and is now covered much more extensively in a major expansion of the subject matter in this section.

**Subsection 3139(a) is deleted and new section 3139(a) is added** to remove vague language and to clarify what approval's are needed, and from whom, for inmates, parolees, and probationers to correspond with each other, as well as to provide updated terminology.

**Subsection 3139(b) is deleted and new section 3139(b) is added** to again remove vague and outdated language, and to begin to expand upon the process by which an inmate must obtain permission to correspond with other inmates, parolees, or probationers.

**Subsection 3139(c) is adopted** to expand upon the process involved when an inmate initiates a request for correspondence approval, and the requirements for processing an inmate's Request for Correspondence Approval, Form 1074, (Rev. 08/87), both if the request is approved or if it is denied.

**Subsection 3139(d) is adopted** to clarify that there are no limitations on the number of times inmates, parolees, or probationers can correspond with one another, which is an expansion of information that was previously contained in Section 3133.

**Subsections 3139(e) through 3139(i) are adopted** to provide additional information or restrictions on correspondents located in restricted housing units, correspondence between family members, inmate transfers, and unapproved correspondence.

**New subsection 3139(j) is adopted** to provide amended information that was previously included in section 3140. This information is being incorporated into section 3139 as it also deals with correspondence between inmates, specifically a related group of inmates known as former inmates.

#### **Section 3140.**

**Existing section 3140 title is deleted** and renamed to “Funds Enclosed in Correspondence” to provide information about how staff are to process funds that are enclosed in correspondence, an important subject that is not currently addressed in existing regulations.

**Initial paragraph in section 3140 is deleted** as this information is more appropriate for inclusion into discussion of correspondence between inmates located in section 3139.

**Subsection 3140(a) is adopted** to identify the types of funds that can be mailed to an inmate, how the funds are to be handled, and noticing the inmate properly that funds were received for placement into his trust account.

**Subsection 3140(b) is adopted** to describe the eligibility process that inmates incur when they receive government checks such as social security, welfare, or tax refund checks.

**Subsection 3140(c) is adopted** to describe the process involved when an institution receives a government check for an inmate that is deceased or has been discharged from the department.

**Subsection 3140(d) is adopted** to acknowledge that not all funds received will be in the form of a money order or certified check, and must be processed differently.

**Subsection 3140(e) is adopted** to provide a strict return policy for correspondence that is received that contains foreign currency.

#### **Section 3141.**

**Existing subsection 3141(a) is deleted** as the language is vague as well as duplicative.

**Existing subsection 3141(b) is renumbered to 3141(a) and amended** for clarity.

**Existing subsection 3141(c) is renumbered to 3141(b) and amended** to include updated terminology and to provide more specific information as to what qualifies as a confidential correspondent.

**New subsection 3141(c) is adopted** to provide additional information about how incoming confidential mail must be addressed, and the steps staff must take if there is a question as to the legitimacy of incoming confidential mail.

#### **Section 3142.**

**Section 3142 is amended** for clarity.

**Subsection 3142(a) is amended** to stipulate that the address of an attorney that an inmate is mailing confidential mail to must match the address listed with the State Bar.

**Subsection 3142(b) is amended** for clarity and updated terminology.

**Subsection 3142(c) is amended** for clarity.

**Existing subsection 3142(d)(1) through 3142(d)(4) is deleted** as the process for inspecting and processing outgoing confidential mail has changed as set forth in new subsection 3142(d).

**Subsection 3142(d) is amended** to reflect new procedures for the inspection and processing of outgoing inmate confidential mail.

**New subsection 3142(e) is adopted** to describe the procedure for handling prohibited material that may be located in outgoing confidential mail.

#### **Section 3143.**

**Existing section 3143 is amended** to add language stipulating that an attorney's address must match that listed with the State Bar. Language is deleted from section 3143 that is no longer relevant or current. Additionally, section 3143 is now renumbered to section 3143(a), as additional information is added to this section describing how incoming confidential mail must now be processed.

**New subsections 3143(a) and (b) are adopted** to describe the process by which staff shall deliver confidential mail to an inmate, and how the inmate will acknowledge receipt in a designated logbook of such mail.

#### **Section 3144.**

**Section 3144 is amended** for clarity and to delete language that is duplicative within the section.

**Subsection 3144(a) remains unchanged.**

**Existing subsection 3144(b) has been relocated and renumbered** to new subsection 3144(c).

**New subsections 3144(b) through subsection 3144(b)(4) are adopted** to provide continuity in the discussion of the inspection of confidential mail and the actions for suspension of confidential mail privileges that are required if incoming confidential mail is deemed inappropriate or contains contraband.

**New subsections 3144(c) through 3144(c)(2) are adopted** from existing subsection 3144(b) and remain unchanged in their entirety.

#### **Section 3145.**

**Section 3145 remains unchanged.**

**Subsection 3145(a) is amended** for clarity and updated terminology.

**Subsection 3145(b) is amended** to reflect a simplification in the process by which confidential mail is returned to sender, and hence to delete language that reflected a more complex process.

**Subsection 3145(c) is amended** for updated terminology, and to provide clarification of what circumstances allow for inclusion of mail into an inmates central file.

#### **Section 3146.**

**Section 3146 remains unchanged.**

#### **Section 3147.**

**Existing section 3147 is relocated and renumbered to section 3133, and amended** in its entirety.